

# Exhibit D

**From:** Renan F. Varghese  
**Sent:** Wednesday, February 2, 2022 3:10 PM  
**To:** 'Fischer, Rachel S.'; Grossman-Boder, Yonatan L.; Christina Sabato; Michael J. Willemin  
**Cc:** McKenna, Kathleen M.  
**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

**Categories:** In progress

Rachel-

We will not agree to limit the searches in the manner in which Fox is requiring in your email. As we have discussed several times, one of the key issues in this case is whether, given the language used by Ms. Eckhart, Fox should have been reasonably on notice that she was engaging in protected activity. This issue necessarily implicates Fox's treatment of other discrimination complaints, the language used in other discrimination complaints, and any policies or practices in place at Fox regarding the same. While we are willing to work with Fox to narrow the hits implicated by Plaintiff's current search terms, we are not agreeing to limit the searches to only those that contain Henry's name as you state below. Please let us know whether Fox is interested in attempting to narrow the scope of the hits or if Fox is not willing to compromise further on Groups 1A, 5, 8 and 9 and we will have to make a motion to the Court on this issue.

Thanks,

**Renan F. Varghese**  
*Of Counsel*

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**From:** Fischer, Rachel S.  
**Sent:** Monday, January 31, 2022 9:10 PM  
**To:** Renan F. Varghese ; Grossman-Boder, Yonatan L. ; Christina Sabato ; Michael J. Willemin  
**Cc:** McKenna, Kathleen M.  
**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

Renan,

We ran the revised search terms that you sent last Wednesday and the hit counts are attached. The overall de-duped hit count is 131,352.

As we have discussed, there are several searches that we do not believe are appropriately directed to relevant and responsive material in this case:

- We will not agree to search 1A. It remains burdensome and is not targeted at material relevant to this case. We will however agree to search 1B, which is targeted to material related to Mr. Henry.

- We will not agree to search 5, as it is burdensome and is not targeted to locate documents relevant to this case. It is also duplicative of search 7, which is more directly targeted to relevant material as Ms. Eckhart's name is included in the search.
- We will agree to most of search 8, but will not agree to the terms (1) "Harass! w/10 (Gender OR sex!)"; (2) "Discrim! w/10 (Gender OR sex!)"; and (3) "Paul Weiss w/10 invest!" unless they are limited to /20 of Henry like the rest of the terms in this search.
- We will not agree to Search 9, as it remains burdensome and does not appear targeted to locate relevant material.

Please let us know your availability to further meet and confer this week.

Rachel

**Rachel S. Fischer**

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**From:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Sent:** Wednesday, January 26, 2022 7:48 PM

**To:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

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---

Rachel-

As discussed.

Thanks,

**Renan F. Varghese**

*Of Counsel*

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**From:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Sent:** Tuesday, January 25, 2022 9:40 PM

**To:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemine <[mwillemine@wigdorlaw.com](mailto:mwillemine@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

That works. We will send a dial-in.

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**From:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Sent:** Tuesday, January 25, 2022 4:49 PM

**To:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemine <[mwillemine@wigdorlaw.com](mailto:mwillemine@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

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I can't then as I have depositions tomorrow. I can do it around the same time, 4?

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**From:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Sent:** Monday, January 24, 2022 10:33 PM

**To:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemine <[mwillemine@wigdorlaw.com](mailto:mwillemine@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

I am not available at 4 tomorrow. Can you do 9 or 9:30 am on Wednesday?

All searches have been de-duped - the overall hit count de-duped across all searches is 244,996.

**Rachel S. Fischer**

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**From:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Sent:** Monday, January 24, 2022 4:56 PM

**To:** Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

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I can do a call tomorrow at 4. Also, do the numbers in the upper left reflect the de-duped search results? If not, please provide those numbers as they are obviously the relevant point of analysis.

Thanks,

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---

**From:** Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Sent:** Monday, January 24, 2022 3:47 PM

**To:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>

**Cc:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

Hi Renan,

Following up on Rachel's email from yesterday as we had not heard back from you. Please see attached the updated hit counts based on your revisions. Please let us know your availability for a call tomorrow and Wednesday to continue our discussions.

Best,  
Yoni

**Yonatan Grossman-Boder**

Associate

(he/him)

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**From:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Sent:** Sunday, January 23, 2022 4:39 PM

**To:** McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>

**Cc:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>; Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Subject:** Re: Eckhart v. Fox News LLC, et al - Hit reports

Renan, I can do noon on Tuesday. Let us know if that works.

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On Jan 21, 2022, at 1:11 PM, McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)> wrote:

Renan: That does not accurately represent our position during the meet and confer call on January 13. I expressed surprise that you began the call inquiring about ESI which was not the subject of the exchange of letters and was additionally a surprise as we had not yet received plaintiff's response to our changes proposed in November on ESI protocol. I stated that we knew that certain of your search terms were producing huge hit counts, others where hit counts seemed unnecessary and yet other terms where it is entirely unclear what the purpose is of the search. The meet & confer which followed and the information we provided supports my earlier comments. Your reply of late last evening appears of value and the postponement I understand Rachel to be suggesting is for purposes of analyzing what you just sent. I leave it to Rachel to comment on the timetable but I thought it important that the representations of our discussions be clear. Regards, Kathleen

**Kathleen M. McKenna**

(she / her)

Partner

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**From:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Sent:** Friday, January 21, 2022 12:34 PM

**To:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Cc:** Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>; McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

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Rachel-

This is why I had asked Kathleen for the hit report when we spoke two weeks ago. She indicated that we did not need the hit report because Fox had very few objections to our search terms. But then when we got on the call on Wednesday we found out that this was not the case and Fox had substantial objections, which you wanted to go over during that call, without providing us with a hit report beforehand. As we discussed, this was untenable for us without having the numbers in front of us which you sent later in the day on Wednesday. If Fox had simply provided the hit report when it was originally run, or even when we asked for it, this process would have gone much faster. We can schedule a time next week to go over our new terms. How is Tuesday afternoon? If we do not have an agreement on the terms in place next week, we will have to go to the Court.

Thanks,

**Renan F. Varghese**

*Of Counsel*

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---

**From:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Sent:** Friday, January 21, 2022 12:26 PM

**To:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Cc:** Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>; McKenna, Kathleen M.

<[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

Thank you Renan. We are in the process of re-running the search terms with your revisions. It seems that it would be most efficient for us to reschedule our 1pm call until after we have had the chance to review updated hit reports. Let us know if you agree with that.

**Rachel S. Fischer**

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**From:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Sent:** Thursday, January 20, 2022 10:26 PM

**To:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Cc:** Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>; McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Subject:** RE: Eckhart v. Fox News LLC, et al - Hit reports

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Rachel-

See our edits attached.

**Renan F. Varghese**

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---

**From:** Fischer, Rachel S. <[rfischer@proskauer.com](mailto:rfischer@proskauer.com)>

**Sent:** Wednesday, January 19, 2022 5:59 PM

**To:** Renan F. Varghese <[RVarghese@wigdorlaw.com](mailto:RVarghese@wigdorlaw.com)>

**Cc:** Christina Sabato <[csabato@wigdorlaw.com](mailto:csabato@wigdorlaw.com)>; Michael J. Willemin <[mwillemin@wigdorlaw.com](mailto:mwillemin@wigdorlaw.com)>; McKenna, Kathleen M. <[KMckenna@proskauer.com](mailto:KMckenna@proskauer.com)>; Grossman-Boder, Yonatan L. <[YGrossman-Boder@proskauer.com](mailto:YGrossman-Boder@proskauer.com)>

**Subject:** Eckhart v. Fox News LLC, et al - Hit reports



Renan,

Further to our discussion this afternoon, please see attached.

Rachel

**Rachel S. Fischer**

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